

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4147 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JIVANBHAI CHUNABHAI BHANGHI

Versus

STATE OF GUJARAT

Appearance:

MR PM THAKKAR for Petitioner

M/S MG DOSHIT & CO for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 24/12/96

ORAL JUDGEMENT

The petitioner, through his Advocate, has preferred this petition, for directing the respondents to consider his claim for permanent appointment in Class IV post, more particularly in view of Government Resolution dated 26.12.1980 at Annexure 'E' and to pay consequential benefits of the said Resolution at Annexure 'E'.

2. Briefly stated, the facts as it emerges from the

compilation of this petition, are as under :-

2.1 The petitioner was working as a Part-time Sweeper in the office of Mamlatdar, Lakhtar Taluka, Lakhtar on a monthly salary of Rs.37-50. The petitioner has stated on oath that he made a representation to increase his salary, and accordingly, by order dated 28.4.1983, his salary was increased to Rs.75/-. It is contended by the petitioner that in view of Annexure 'E' dated 26.12.1980 issued by the Government of Gujarat, Finance Department, the petitioner having completed three years as a part time workman, the respondent was duty bound to appoint him on a regular post. It seems on reading the petition, which is on oath, it is claimed that the earlier representation made by the petitioner was accepted and his salary was increased from Rs.37-50 to Rs.75/-, but as he is denied the benefit of the resolution at Annexure 'E', this Court is approached and this Court issued process in this matter.

3. State has filed affidavit in reply in this matter, which is sworn by Tribhovan Devshibhai Solanki, Resident Deputy Collector, Surendranagar District. Mr. Mehta, learned AGP read out paragraph 3 of the affidavit and submitted that the contentions raised by the petitioner in this petition are not only misleading but false. By annexure 'A', the petitioner was engaged to work for one hour per day, for which he was offered salary of Rs.37-50 per month. By Annexure 'B', the petitioner was engaged to work for two hours per day, and consequently, his salary was increased from Rs.37-50 to Rs.70/-. Thus, salary was increased with the increase in the timings of work and not on account of his representation. Therefore, it is clear that the case, as put forth by the petitioner, is not that of an increase in salary but it is a case of increase in the working hours and commensurate increase in remuneration.

4. Apart from this, learned AGP pointed out that annexure 'E' appears to be a fabricated document. Along with the affidavit, the State has produced a true copy of the annexure 'E'. After comparing annexure 'E' produced by the petitioner along with the petition with the copy of the resolution produced by the respondents along with their affidavit, I am of the view that the petitioner has produced a false document claiming that as a resolution with a view to impress upon the Court that the Government has issued a circular that a part-timer, after completion of three years, should be accommodated on a regular post. The submission that in view of circular, part timer who has completed three years should be appointed,

irrespective of recruitment rules or procedure, cannot be accepted. Production of such document before the Court is required to be depreciated. The Advocate who has produced the document on record, ought to have signed it as true copy only after verifying the original and comparing it with its original. Mr. D.M. Thakkar, learned Advocate for Mr. P.M. Thakkar, is unable to render any explanation as to how there is a discrepancy in the document which is produced on record at annexure 'E'. After verifying the signature, Mr. D.M. Thakkar stated that Mr. Ajit Padiwal has certified the same as a true copy and further stated that Mr. Padiwal has left their Chamber since long. Mr. Thakkar searched in vain his brief to locate the original of annexure 'E' and stated that he is unable to state from which Mr. Padiwal has compared the annexure 'E' to certify it as a true copy. When an Advocate certifies any document to be a true copy, it is his responsibility and he has to sign so only after verifying the original and only after comparing. Mr. Thakkar stated that in the instant case, copy might have been taken from some other proceedings. In any event, this Court would like to observe that the Advocate owes a duty to the Court to place on record the original or certified true copy and when he signs any document as a true copy, for placing it on record in place of original, duty must be discharged with due diligence. As a matter of fact, only certified copy or original document is to be placed on record. Only to facilitate, office is accepting copy signed by learned Advocate as a true copy, but it does not mean that learned Advocate is absolved from placing the original or certified true copy on record. It is the duty and responsibility of an Advocate to produce the original or certified true copy on record. In the instant case, the copy which is placed on record is not a true copy of original and even learned Advocate has not bothered to place the original or a certified true copy on record. Petitions with such documents must be dismissed and the practice of production of true copy in this fashion must be discouraged in the absence of original with the Advocate.

Though the copy of the affidavit along with its annexure have been served on the petitioner's Advocate as back as 21.3.1991, the petitioner has not filed any counter, and therefore, we do not find any reason why the resolution produced by the State should not be accepted. In the circular produced by the Government, we do not find anything to indicate that the concerned officer should appoint part time workers, on completion of three years service, on a regular post, irrespective of

recruitment rules and regulations. It specifically states that in accordance with the rules and regulations, the officer should try to accommodate a part-timer who has completed three years. Moreover, it is stated in the affidavit that there is no permanent post of sweeper in the office where the petitioner is working. The deponent has also denied that the petitioner is working from 7.00 a.m. to 12.00 p.m. It is also pointed that Class IV posts are required to be filled in by calling the names of eligible persons from the employment exchange. It is also pointed out that the petitioner is not possessing requisite qualifications for appointment to Class IV post. These averments on oath are not controverted by the petitioner. Therefore, the same must be accepted by this Court. In the result, I find no merit in this petition, and the same stands rejected.

Rule discharged with costs.

csm./ -----